

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 98-457

June 29, 1999

PUBLIC UTILITIES COMMISSION  
Standards of Conduct  
for Transmission and Distribution  
Utilities and Affiliated  
Competitive Electricity Providers  
(Chapter 304)

ORDER FINALLY  
ADOPTING RULE AND  
STATEMENT OF  
POLICY BASIS

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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In this Order, we finally adopt a rule implementing standards of conduct for transmission and distribution utilities and affiliated competitive electricity providers.

On December 7, 1998, the Commission provisionally adopted a rule governing standards of conduct between utilities and their affiliated electricity providers. Because the rule was denominated as a "major substantive" rule by 35-A M.R.S.A. §§ 3205(4) and 3206(2), it required legislative approval under 5 M.R.S.A. §§ 8071-8074. In compliance with those provisions, the Commission submitted the rule to the Legislature for its approval. On May 18, 1999, Governor King signed into law Resolves 1999, ch. 36, which authorizes final adoption of the standards of conduct rule.

Although Chapter 36, which became effective on May 18, 1999,<sup>1</sup> authorizes the final adoption of the standards of conduct rule, it also requires that the following three changes be made to the language of the rule when finally adopted:

1. Deletion of section 2, paragraph F (proprietary customer information definition);
2. Deletion of section 3, paragraph I (proprietary customer information requirement);
3. Addition of a provision that clarifies that nothing in the rule prevents a distribution utility from entering into a special contract offering a special rate to a customer or group of customers pursuant to a rate flexibility program approved by the Commission under 35-A M.R.S.A. § 3195(6).

These changes have been made to the final rule.

In addition, Public Law 1999, ch. 398, Part G, directs that the following two modifications be made to Chapter 304:

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<sup>1</sup> Section 8072(8) of Title 5 requires agencies to finally adopt major substantive rules within 60 days of the effective date of the legislation approving the rule

1. Addition of a provision providing that an investor-owned electric utility may not subsidize the business of its affiliated competitive provider at ratepayer expense in a manner not specifically authorized by 35-A M.R.S.A. § 3205; and
2. Modification of the penalty provisions to increase the administrative penalties from a maximum of \$10,000 to a maximum of \$100,000 and provide for disgorgement of profits in addition to the administrative penalty for violations of the standards of conduct.

Chapter 398, however, will not take effect until September 18, 1999. After that date, we will issue a supplemental order finally adopting rule that make the changes required by Chapter 398.

Accordingly, we

#### O R D E R

1. That the attached Chapter 304, Standards of Conduct for Transmission and Distribution Utilities and Affiliated Competitive Electricity Providers is hereby finally adopted;

2. That the Administrative Director shall file the finally adopted rule and related materials with the Secretary of State; and

3. That the Administrative Director shall send copies of this Order and attached rule to:

- A. All electric utilities in the State;
- B. All persons who have filed with the Commission within the past year a written request for notices of rulemakings;
- C. All persons on the Commission's list of persons who wish to receive notice of all electric restructuring proceedings;
- D. All persons who have filed comments in Docket No. 98-457; and
- E. The Executive Director of the Legislative Council (20 copies).

Dated at Augusta, Maine, this 29th day of June, 1999.

BY ORDER OF THE COMMISSION

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Raymond J. Robichaud  
Assistant Administrative Director

COMMISSIONERS VOTING FOR:      Nugent  
   Diamond

COMMISSIONER ABSENT:            Welch

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.